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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/056,348	01/25/2002	Ronald M. Burch	200.1079CON4	8332

7590 08/01/2006

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EXAMINER	
LIU, SUE XU	

ART UNIT	PAPER NUMBER
1639	

DATE MAILED: 08/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/056,348	BURCH ET AL.	
	Examiner	Art Unit	
	Sue Liu	1639	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *11 April 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *38 and 47-52* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *38 and 47-52* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Please note the change of examiner for this application. (Please see the Conclusion paragraph for information on any future correspondence.)

Claim Status

Claims 1-37 and 39-46 have been cancelled;

Claims 38, and 47-52 are currently pending;

Claims 38, and 47-52 are being examined in this application.

Priority

1. This application is a continuation of 09/154,354 (filed 9/17/1998; now US Patent 6,552,031), which claims benefit of 60/059,195 (filed 9/17/1997).

Claim Rejections Maintained (103 art rejection)

Claim Rejections - 35 USC § 103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 38, 47-48, 50-52 as amended or originally filed are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 4,569,937 (Baker et al) and Friedel et al (Drugs. 1993. Vol. 45 (1) pages 131-156) and Eversmeyer et al (American Journal of Medicine, Aug. 1993, vol. 95, pages 10S-10S). The previous rejection is maintained for the reasons of record advanced on pages (3-6) of the office action mailed on 10/6/05.

Discussion and Answer to Argument (103 art rejection)

5. Applicant's arguments have been fully considered but they are not persuasive for the following reasons (in addition to reasons of record). Each point of applicant's traversal is addressed below (applicant's arguments are in italic):

Applicants emphasize that because the claim language is drawn to using analgesic compounds consisting essentially of two particular agents, the claim exclude any other analgesic compound.

To answer applicant's argument regarding claim interpretation, contrary to applicant's assertion, the phrase "consisting essentially of" is not a close-ended transitional phrase that excludes any other materials that are not recited in the claim. On the other hand, the MPEP defines the phrase "consisting essentially of" as the following (see MPEP 2111.03 [R-3] Transitional Phrases):

> The transitional phrase "consisting essentially of" limits the scope of a claim to the specified materials or steps "and those that do not materially affect the basic

and novel characteristic(s)" of the claimed invention. In re Herz, 537 F.2d 549, 551-52, 190 USPQ 461, 463 (CCPA 1976) (emphasis in original) (Prior art hydraulic fluid required a dispersant which appellants argued was excluded from claims limited to a functional fluid "consisting essentially of" certain components. In finding the claims did not exclude the prior art dispersant, the court noted that appellants' specification indicated the claimed composition can contain any well-known additive such as a dispersant, and there was no evidence that the presence of a dispersant would materially affect the basic and novel characteristic of the claimed invention. The prior art composition had the same basic and novel characteristic (increased oxidation resistance) as well as additional enhanced detergent and dispersant characteristics.). "A consisting essentially of' claim occupies a middle ground between closed claims that are written in a consisting of' format and fully open claims that are drafted in a comprising' format." PPG Industries v. Guardian Industries, 156 F.3d 1351, 1354, 48 USPQ2d 1351, 1353-54 (Fed. Cir. 1998). See also Atlas Powder v. E.I. duPont de Nemours & Co., 750 F.2d 1569, 224 USPQ 409 (Fed. Cir. 1984); In re Janakirama-Rao, 317 F.2d 951, 137 USPQ 893 (CCPA 1963); Water Technologies Corp. vs. Calco, Ltd., 850 F.2d 660, 7 USPQ2d 1097 (Fed. Cir. 1988). For the purposes of searching for and applying prior art under 35 U.S.C. 102 and 103, absent a clear indication in the specification or claims of what the basic and novel characteristics actually are, "consisting essentially of" will be construed as equivalent to "comprising." See, e.g., PPG, 156 F.3d at 1355, 48 USPQ2d at 1355 ("PPG could have defined the scope of the phrase consisting essentially of' for purposes of its patent by making clear in its specification what it regarded as constituting a material change in the basic and novel characteristics of the invention."). See also AK Steel Corp. v. Sollac, 344 F.3d 1234, 1240-41, 68 USPQ2d 1280, 1283-84 (Fed. Cir. 2003) (Applicant's statement in the specification that "silicon contents in the coating metal should not exceed about 0.5% by weight" along with a discussion of the deleterious effects of silicon provided basis to conclude that silicon in excess of 0.5% by weight would materially alter the basic and novel properties of the invention. Thus, "consisting essentially of" as recited in the preamble was interpreted to permit no more than 0.5% by weight of silicon in the aluminum coating.); In re Janakirama-Rao, 317 F.2d 951, 954, 137 USPQ 893, 895-96 (CCPA 1963). If an applicant contends that additional steps or materials in the prior art are excluded by the recitation of "consisting essentially of," applicant has the burden of showing that the introduction of additional steps or components would materially change the characteristics of applicant's invention. In re De Lajarte, 337 F.2d 870, 143 USPQ 256 (CCPA 1964). See also Ex parte Hoffman, 12 USPQ2d 1061, 1063-64 (Bd. Pat. App. & Inter. 1989) ("Although consisting essentially of' is typically used and defined in the context of compositions of matter, we find nothing intrinsically wrong with the use of such language as a modifier of method steps. . . [rendering] the claim open only for the inclusion of steps which do not materially affect the basic and novel characteristics of the claimed method. To determine the steps included versus excluded the claim must

> be read in light of the specification. . . . [I]t is an applicant's burden to establish that a step practiced in a prior art method is excluded from his claims by consisting essentially of' language.").

In addition, the claim language is drawn to a method of "administering to a human patient an oral dosage comprising analgesic compounds consisting enssentially of...". The transitional phrase, "comprising" renders the claim open-ended, and therefore the claimed oral dosage would not exclude other materials or substances.

Applicants also argue that the rejection based on the Baker reference is unfounded (top of pg 5, Applicant's reply).

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Applicants also argue that the Baker reference is directed to pharmaceutical compositions of narcotic analgesics and ibuprofen, but not compositions comprising other members of the broad class of NSAIDs (non-steroidal anti-inflammatory drugs) that are different from ibuprofen. Specifically, applicants argue that the Baker reference only mentioned the term "NSAID" twice in Cols. 1-2 of the Baker reference. And the teaching of NSAID in Cols. 1-2 is a discussion of prior art, not a teaching of the Baker reference.

The examiner respectfully disagrees. Regardless of the number of times the acronym "NSAID" is mentioned in the text of the reference, the Baker reference teaches the class of drugs that are known as NSAID, as recited in Col. 1-2 of Baker.

Although Baker does not specifically teach a combination of a narcotic analgesic such as oxycodone and a NSAID such as nebumetone, Baker teaches the advantages such as enhanced analgesic effect by combining narcotic analgesics and NSAID in general (see Col. 1, lines 21+, for example). This provides motivations for combining any narcotic analgesic and NSAID that would provide enhanced analgesic effect. The outstanding 103 rejection cited above is over a combination of references, but not over Baker alone. The combination of references teaches the combination of Oxycodone and nebumetone as discussed below.

In addition, applicant's argument of the teachings recited in col.1-2 of the Baker reference is a discussion of prior art, but not a teaching of the Baker reference, is also addressed in the previous office action, and is incorporated below:

Applicant's interpretation of the Baker patent reference fails to consider the Baker patent teaching as a whole to one of ordinary skill in the art:

> "The use of patents as references is not limited to what the patentees describe as their own inventions or to the problems with which they are concerned. They are part of the literature of the art, relevant for all they contain." In re Heck, 699 F.2d 1331, 1332-33, 216 USPQ 1038, 1039 (Fed. Cir. 1983) (quoting In re Lemelson, 397 F.2d 1006, 1009, 158 USPQ 275, 277 (CCPA 1968)). A reference may be relied upon for all that it would have reasonably suggested to one having ordinary skill the art, including nonpreferred embodiments. Merck & Co. v. Biocraft Laboratories, 874 F.2d 804, 10 USPQ2d 1843 (Fed. Cir.), cert. denied, 493 U.S. 975 (1989). See also Celeritas Technologies Ltd. v. Rockwell International Corp., 150 F.3d 1354, 1361, 47 USPQ2d 1516, 1522-23 (Fed. Cir. 1998).

Accordingly, the Baker teaching includes Baker's entire specification and claims, inclusive of Baker's summary of the state of the prior art as illustrated in the "The Background of the Invention" (col. 1-2). In this respect, Baker '936 (col. 1-2) cites numerous prior art references starting with Sunshine et al. for the premise of making analgesic compositions by combining NSAID"s with narcotic analgesic (distinguished by merely additive analgesic effect) as well as other NSAID's (e.g. acetaminophen etc) with various narcotic analgesics, most notably oxycodone. Baker's invention (e.g. following the summary) is distinguished from the prior art by selecting compositions comprising ibuprofen as the NSAID in combination with narcotic analgesics (including oxycodone) in synergistically effective amounts while reducing the amounts of the narcotic analgesic thus addressing the problem of addiction (pointed to at the end of the "Background of the Invention").

Applicants also argue that the Baker reference rejected all NSAIDs in their invention except ibuprofen (pg5, 3rd para. of applicant's reply). Applicants also argue that the Baker reference teaches away from substituting ibuprofen with another NSAID, because of the unexpected synergy that it purports for the combination of ibuprofen with a narcotic analgesic (pg6, 2nd para).

In support of applicant's argument that the Baker reference rejected all NSAIDs in their invention except ibuprofen by quoting col. 1, lines 6-9 and col. 2, lines 11-15 of the Baker disclosure:

> *This invention relates to pharmaceutical compositions of narcotic analgesics and ibuprofen having analgesic activity in mammals, and to methods*

> *of use of the compositions to alleviate pain in mammals. (Emphasis Added by applicants))*
>
> *According to the present invention there is provlded a pharmaceutical composition comprising a combination of (a) a narcotic analgesic, or a pharmaceutically acceptable salt thereof and (b) ibuprofen. or a pharmaceutically suitable salt thereof, ... (Emphasis Added by applicants)*

Contrary to applicant's interpretations of the disclosure, the Baker reference does not reject all or teach away from other NSAIDs. The quoted paragraphs from the disclosure only provide one aspect of the reference's teachings of a particular combination of narcotic analgesics and ibuprofen. As discussed above, Baker et al teaches combinations of narcotic analgesics and NSAIDs (see col. 1-2), and do not exclude other NSAIDs from forming the combination of narcotic analgesic and NSAID that would have enhanced analgesic effect. In other words, the Baker reference does not teach that a combination of a narcotic analgesic and any of the other NSAIDs (besides ibuprofen) cannot be made or cannot be used to treat pain.

Rather, the Baker reference opens the door for developing combinations of NSAIDs and narcotic analgesics beside the combinations of ibuprofen and oxycodone. As discussed above, Baker teaches, in general, a combination of a selected NSAID and a narcotic analgesic would have enhanced analgesic effect (col. 1, lines 22+). Baker et al also demonstrated a particular combination of the two classes of drug has enhanced analgesic effect. A person of ordinary skill in the art would be motivated to select different NSAID and/or a different narcotic analgesic to form a desired combination with enhanced analgesic effect.

In addition, applicant's "teaching away" argument was also addressed in the previous office action, and the relevant section from the previous office action is cited below:

In light of the "Background of the Invention" of the Baker reference (e.g. Col. 1-2) and lack of any evidence that substitution with a different NSAID would render pain treatment inoperative applicant's teaching away argument is not understood. At most, the selection of a different NSAID may lead to less than synergistic pain relief (e.g. additive) and as such may be "less preferred". In this regard, however, it is noted that:

> Disclosed examples and preferred embodiments do not constitute a teaching away from a broader disclosure or nonpreferred embodiments. In re Susi, 440 F.2d 442, 169 USPQ 423 (CCPA 1971). "A known or obvious composition does not become patentable simply because it has been described as somewhat inferior to some other product for the same use." In re Gurley, 27 F.3d 551, 554, 31 USPQ2d 1130, 1132 (Fed. Cir. 1994). See also MPEP 2121.04.

Applicants also argue that the examiner has improperly picked and chosen the nabumetone of Friedel and Eversmeyer references with the oxycodone of Baker to recreate the instant claims. Applicants' also argue that by modifying the formulation of the Baker reference in view of the Friedel and Eversmeyer references through substituting ibuprofen with nabumetone would result in a dosage form which is not directed to the principle of operation described in Baker et al. (Applicants cited MPEP 8th ed. Revision 2, p.2100-132 for "the principle of operation" argument.)

Contrary to applicants' assertion, the references are properly combined because the combination of the reference teaches or suggests all elements of the instant claims, teaches motivation to combine the references' teachings, and demonstrates reasonable expectation of success. Because applicants do not dispute that the cited references teach all elements and

reasonable expectation of success, the discussion below is only addressing applicants' arguments over the motivation to combine the references' teachings (in addition to the reason of record):

First, applicant's citation of the MPEP is irrelevant. In MPEP 2143.02, the manual states "If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims prima facie obvious." The manual also cites *In re Ratti*, 270 F. 2d 810, 123 USPQ 349 (CCPA 1959). *In re Ratti was directed to a claim drawn to* "an oil seal comprising a bore engaging portion with outwardly biased **resilient** spring fingers inserted in a **resilient** sealing member". The court held that a secondary reference requiring a complete redesign of the primary reference oil seal from one which **required rigidity** to one which was **resilient** was not combinable (emphasis provided). That is the combination of references cited in the case requires complete redesign of the oil seal from the primary reference.

In the instant situation, however, the modification (or substitution) of the analgesic combination is through replacement of one functionally equivalent compound for another, and is useful for the same purpose of treating pain.

Additionally, applicant's interpretation of the "principle of operation" of the Baker reference teaching is too narrow. The "principle of operation" of the Baker reference is to combine NSAID's (e.g. ibuprofen) with opioids (e.g. oxycodone) in order to achieve improved pain relief as compared to the separate administration of the active agents. The unexpected benefit of achieving greater than additive pain relief (e.g. synergism) represents a strong teaching toward formulating additional compositions which include different (functionally equivalent)

NSAID's, especially those with fewer side-effects as compared to traditional NSAID's as pointed out in the secondary reference (Eversmeyer et al; e.g. Abstract of the reference).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the above rejection provides ample motivation to combine the references *inter alia* the substitution of one non-narcotic NSAID for another, especially where the secondary reference suggests benefits imparted by making the substitution as outlined in the rejection set forth in the previous office action. For the sake of clarity, the motivation supplied by each of the reference and the reason to combine the references are stated below:

Baker et al. teach pharmaceutical compositions for relieving pain in humans or mammals (e.g. mice, rats etc.) comprising a combination of :

a. a narcotic analgesic (preferably oxycodone: see formulations col. 4-8; mice data in col. 8-10; patent claims), or a pharmaceutically acceptable salt thereof; and

b. ibuprofen (a non-steroidal anti-inflammatory drug or NSAID: see col. 1-2), or a pharmaceutically acceptable suitable salt thereof.

The Baker et al. reference teach that dose ratios can be adjusted and that the analgesic activity of the combined oxycodone and ibuprofen activity is unexpectedly enhanced or synergistic i.e. the resulting activity is greater than the activity expected from the sum of the

activities of the individual components, thereby permitting reduced dosages of narcotic analgesics (e.g. oxycodone) AND which diminishes adverse side effects (e.g. addiction) and toxicity which would result from the otherwise required amounts of the individual drug components resulting from high dosages of oxycodone or NSAID's such as ibuprofen. See e.g. col. 1-2; col. 3, lines 19-32). Accordingly, Baker would teach the use of therapeutic and subtherapeutic amounts of oxycodone and/or ibuprofen in view of the synergistic nature of the combinations and the desire to reduce the toxicity and/or side-effects of both agents; and as required by the doctor for his/her particular patient., including dosage optimization e.g. dosage overlapping of active ingredients. See e.g. col. 3 where dosage is modified to suit the particular patient.

The Baker analgesic composition differs from that presently claimed in that it fails to teach the substitution of nabumetone for ibuprofen into the Baker compositions.

Friedel et al teach that nabumetone possesses the typical pharmacodynamic properties of the nonsteroidal class of anti-inflammatory (NSAID) drugs including intrinsic analgesic and antipyretic activity being demonstrated in animal studies and in humans with the following advantages over other NSAIDS:

a. does not exert a significant direct toxic effect on the gastric mucosa during absorption;

b. in studies, produced a lower incidence of gastrointestinal erosions or microbleeding than aspirin, naproxen, piroxicam and ibuprofen; and

c. more recently clinical data further confirmed the efficacy and tolerability of nabumetone ; "Thus, the drug (e.g. nabumetone) should now be considered a well established member of this group of agents (e.g. NSAIDS) for the treatment of painful

rheumatic and inflammatory conditions". See e.g. Abstract, pages 132-133 as well as the remainder of Friedel.

Similarly, **Eversmeyer et al** teaches that nabumetone is equally efficacious in the treatment of arthritic pain patients (e.g. osteo/rheumatoid arthritis) but has shown to be more safe, with reduced side-effects (e.g. dyspepsia, ulcers, reduced hemoglobin, gastritis etc.). See Eversmeyer et al. Abstract and disclosed studies.

Accordingly, one of ordinary skill in the art would have been motivated to substitute nabumetone (a NSAID) for ibuprofen (a different NSAID) in the Baker reference compositions in light of the Friedel and/or Eversmeyer reference teachings that nabumetone is equally efficacious, but is safer with less side effects (e.g. as compared to ibuprofen).

Additionally, it is noted that the instant situation is amenable to the type of analysis set forth in *In re Kerkhoven*, 205 USPQ 1069 (CCPA 1980) wherein the court held that it is *prima facie* obvious to combine two (or more) compositions each of which is taught by the prior art to be useful for the same purpose.

Thus, it would have been prima facie obvious to one of ordinary skill in the art at the time of applicant's invention to modify the Baker reference analgesic composition by substituting the NSAID nabumetone for the NSAID ibuprofen in light of the benefits of nabumetone (increased safety/decreased side effect as compared to ibuprofen) as taught by the Friedel and/or Eversmeyer references.

Claim Rejections Maintained (103 art rejection)

Claim Rejections - 35 USC § 103

6. Claim 49 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baker et al. '937 and Friedel et al. Drugs Vol. 45(1): pages 131-156 1993) and/or Eversmeyer et al. as applied to claims 38, 47-48 and 50-52 above, and further in view of Oshlack et al. US Pat. No. 5,472,712 (12/95) or Oshlack et al. US Pat. No. 6,294,195 (9/01: effectively filed 10/93 or earlier). The previous rejection is maintained for the reasons of record advanced on pages (6-7) of the office action mailed on 10/6/05.

Discussion and Answer to Argument (103 art rejection)

7. Applicant's arguments have been fully considered but they are not persuasive for the following reasons (in addition to reasons of record). Each point of applicant's traversal is addressed below (applicant's arguments are in italic):

Applicants briefly argue that "the Oshlack references do not cure the deficiencies of the Baker reference in view of the Friedel and Eversmeyer references as set forth above" (pg 7, 4th para.).

Because applicant did not provide explanation as to why the Oshlack reference do not cure the deficiencies of the Baker reference in view of the Friedel and Eversmeyer references, the previous rejection is maintained for the reason of record, and the rejection is herein incorporated by reference in its entirety.

Applicant's argument can also be construed to be over the Baker reference, which is addressed in the above discussion.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sue Liu whose telephone number is 571-272-5539. The examiner can normally be reached on M-F 9am-3pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Paras can be reached at 571-272-4517. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SL
Art Unit 1639
7/19/2006

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